

**DECISION**

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

14-2  
Billard

**FILE:** B-209387

**DATE:** May 23, 1983

**MATTER OF:** Clackamas Communications, Inc.

**DIGEST:**

Although descriptive literature requirement in solicitation was not as precise as it should have been, agency properly rejected bid as nonresponsive where bidder failed to include any of the required descriptive literature with its bid and the agency could not determine that the bidder was offering a product that conformed with the solicitation's specifications.

Clackamas Communications, Inc. protests the rejection of its bid because of its failure to include descriptive data under invitation for bids No. R6-6-82-9, issued by the Department of Agriculture, Forest Service, for an Electronic Automatic Private Branch Exchange telephone switching system at the Estacada Ranger Station, Mt. Hood National Forest. For the reasons that follow, we deny the protest.

Clackamas submitted the lowest of the nine bids received. However, because Clackamas' bid included no literature describing the equipment proposed and that firm indicated in its bid that it offered a Siemens 192 system (Siemens' model SD-192/232 does not conform with the solicitation specifications while its model SD-192MX does) the agency could not tell whether the protester proposed an acceptable system and rejected its bid as nonresponsive.

While the protester admits that it submitted no literature describing its equipment, it argues that its bid was responsive because the solicitation only required a statement from the equipment manufacturer that parts and maintenance would be available 120 months from the date of award and it included such a letter with its bid.

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The solicitation included the following clause pertaining to the submission of descriptive literature:

"(a) DESCRIPTIVE LITERATURE AS SPECIFIED IN THIS INVITATION FOR BIDS MUST BE FURNISHED AS A PART OF THE BID AND MUST BE RECEIVED BEFORE THE TIME SET FOR OPENING BIDS. THE LITERATURE FURNISHED MUST BE IDENTIFIED TO SHOW THE ITEM IN THE BID TO WHICH IT PERTAINS. THE DESCRIPTIVE LITERATURE IS REQUIRED TO ESTABLISH, FOR THE PURPOSES OF BID EVALUATION AND AWARD, DETAILS OF THE PRODUCTS THE BIDDER PROPOSES TO FURNISH AS TO FEATURES, FUNCTIONS, AND LINES REQUIRED TO MEET THE SYSTEM REQUIREMENTS THROUGHOUT THE SYSTEM LIFE.

(b) FAILURE OF DESCRIPTIVE LITERATURE TO SHOW THAT THE PRODUCT OFFERED CONFORMS TO THE SPECIFICATIONS AND OTHER REQUIREMENTS OF THIS INVITATION FOR BIDS WILL REQUIRE REJECTION OF THE BID. \* \* \*

A solicitation may require that descriptive data accompany each bid for the purpose of bid evaluation, if the agency decides it needs such data, to determine whether the product offered meets the specifications and what the agency would be binding itself to purchase. Air Plastics, Incorporated, 53 Comp. Gen. 622 (1974), 74-1 CPD 100. The data requirement must clearly establish the nature and extent of the descriptive material asked for and the purpose intended to be served by such data. 53 Comp. Gen. 622, supra. A failure to comply with such a descriptive literature requirement will ordinarily result in rejection of the bid as nonresponsive. Stacor Corporation; Isles Industries, Inc., 57 Comp. Gen. 234 (1978), 78-1 CPD 68.

Here, however, Clackamas notes that the specifications contain no reference to descriptive literature except the following clause:

"There must be a written manufacturer's commitment for parts, maintenance, and manufacturing field support, including software in the event vendor ceases to be the authorized distributor

or ceases operation. The contractor guarantees that replacement parts for the system set forth in this contract will be available for 120 months from date of award. Manufacturer's written commitment shall be submitted prior to bid opening. Reference SF-33A, Clause 2 (p) Descriptive Literature."

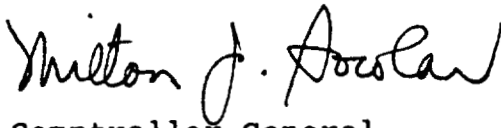
Thus, the protester maintains that the solicitation required no descriptive literature for the actual telephone equipment; it only required such literature for the specified maintenance and parts requirement. We disagree.

A solicitation must clearly indicate the components concerning which descriptive data is required. 53 Comp. Gen. 622, supra. Here, the descriptive literature clause stated that the literature is needed to establish "details of the products" proposed with respect to "features, functions, and lines" and must show that the "product offered conforms to the specifications." While the reference to the descriptive literature clause in the above-quoted specification provision may have been confusing, we think it should have been clear, in the context of this solicitation for a phone switching system, that the term "product" in the descriptive literature clause referred to the actual phone equipment proposed and that, to satisfy the descriptive literature requirement, bidders had to furnish adequate data regarding the features and functions of the product it proposed to furnish and the lines needed in connection with it. Consequently, while we agree with the protester that it was obligated to submit the manufacturer's written commitment concerning maintenance and parts with its bid, we do not believe the protester acted reasonably in not also providing any literature describing its proposed equipment. If the protester was not sure of what the solicitation required, it should have contacted the contracting officer prior to the opening of bids.

Since the protester's bid included no literature or other materials which would have enabled the agency to ascertain whether the equipment offered met the specification requirements, we find that the agency properly rejected it.

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The protest is denied.

for   
Comptroller General  
of the United States